



## 2011 SENATE BILL 315

1     **AN ACT** *to amend* 118.127 and 938.396 (2g) (m) 6. of the statutes; **relating to:**  
2             use of law enforcement or juvenile court records to take disciplinary action  
3             against a pupil under a school district's athletic code and reductions in cost of  
4             compensation or fringe benefits to school districts in Milwaukee without  
5             modifying an existing collective bargaining agreement for purposes of 2011  
6             Wisconsin Act 10 and 2011 Wisconsin Act 32.

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*Analysis by the Legislative Reference Bureau*

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

7             **SECTION 1.** 118.127 of the statutes is amended to read:  
8             **118.127 Law enforcement agency information.** A school district, private  
9             school, or tribal school may disclose information from law enforcement officers'  
10            records obtained under s. 938.396 (1) (c) 3. only to persons employed by the school

**SENATE BILL 315****SECTION 1**

1 district who are required by the department under s. 115.28 (7) to hold a license, to  
2 persons employed by the private school or tribal school as teachers, and to other  
3 school district, private school, or tribal school officials who have been determined by  
4 the school board or governing body of the private school or tribal school to have  
5 legitimate educational interests, including safety interests, in that information. In  
6 addition, if that information relates to a pupil of the school district, private school,  
7 or tribal school, the school district, private school, or tribal school may also disclose  
8 that information to those employees of the school district, private school, or tribal  
9 school who have been designated by the school board or governing body of the private  
10 school or tribal school to receive that information for the purpose of providing  
11 treatment programs for pupils enrolled in the school district, private school, or tribal  
12 school. A school district may not use law enforcement officers' records obtained  
13 under s. 938.396 (1) (c) 3. as the sole basis for expelling or suspending a pupil or as  
14 the sole basis for taking any other disciplinary action, ~~including against a pupil, but~~  
15 may use law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the  
16 sole basis for taking action against a pupil under the school district's athletic code,  
17 ~~against a pupil.~~

18 **SECTION 2.** 938.396 (2g) (m) 6. of the statutes is amended to read:

19 938.396 (2g) (m) 6. Except as required under subs. 1. to 5. or by order of the  
20 court, no information from the juvenile's court records may be disclosed to the school  
21 board of the school district, the governing body of the private school, or the governing  
22 body of the tribal school in which the juvenile is enrolled or the designee of the school  
23 board or governing body. Any information from a juvenile's court records provided  
24 to the school board of the school district or the governing body of the private school  
25 in which the juvenile is enrolled or the designee of the school board or governing body

**SENATE BILL 315**

1 shall be disclosed by the school board, governing body, or designee to employees of  
2 the school district or private school who work directly with the juvenile or who have  
3 been determined by the school board, governing body, or designee to have legitimate  
4 educational interests, including safety interests, in the information. A school district  
5 or private school employee to whom that information is disclosed may not further  
6 disclose the information. If information is disclosed to the governing body of a tribal  
7 school under this subdivision, the court shall request that the governing body of the  
8 tribal school or its designee disclose the information to employees who work directly  
9 with the juvenile or who have been determined by the governing body or its designee  
10 to have legitimate educational interests, including safety interests, in the  
11 information, and shall further request that the governing body prohibit any  
12 employee to whom information is disclosed under this subdivision from further  
13 disclosing the information. A school board may not use any information from a  
14 juvenile's court records as the sole basis for expelling or suspending a juvenile or as  
15 the sole basis for taking any other disciplinary action, ~~including against a juvenile,~~  
16 but may use information from a juvenile's court records as the sole basis for taking  
17 action against a juvenile under the school district's athletic code, ~~against the~~  
18 ~~juvenile~~. A member of a school board or of the governing body of a private school or  
19 tribal school or an employee of a school district, private school, or tribal school may  
20 not be held personally liable for any damages caused by the nondisclosure of any  
21 information specified in this subdivision unless the member or employee acted with  
22 actual malice in failing to disclose the information. A school district, private school,  
23 or tribal school may not be held liable for any damages caused by the nondisclosure  
24 of any information specified in this subdivision unless the school district, private

**SENATE BILL 315****SECTION 2**

1 school, or tribal school or its agent acted with gross negligence or with reckless,  
2 wanton, or intentional misconduct in failing to disclose the information.

3 **SECTION 2v. Nonstatutory provisions.**

4 (1) Notwithstanding 2011 Wisconsin Act 32, section 9132 (1d) (a), a municipal  
5 employer, as defined in section 111.70 (1) (j) of the statutes, that is a school district  
6 in a city of the first class and the representative of a collective bargaining unit  
7 containing employees of that municipal employer may enter into one memorandum  
8 of understanding that reduces the cost of compensation or fringe benefits in the  
9 collective bargaining agreement under subchapter IV of chapter 111 of the statutes  
10 that covers the employees, that was entered into before February 11, 2011, and that  
11 is in effect on the effective date of this subsection. Such a modification is not a  
12 modification of the collective bargaining agreement for purposes of 2011 Wisconsin  
13 Act 10, sections 9315 (1) and (2) and 9332 (1) or 2011 Wisconsin Act 32, section 9332  
14 (1c), (1q), and (2r), or any provisions that are substantially similar to 2011 Wisconsin  
15 Act 10, sections 9315 (1) and (2) and 9332 (1) or 2011 Wisconsin Act 32, section 9332  
16 (1c), (1q), and (2r), that may be enacted under separate legislation. The  
17 memorandum of understanding entered into under this subsection remains effective  
18 for the duration of the current collective bargaining agreement and continues to be  
19 effective after the collective bargaining agreement expires until a new collective  
20 bargaining agreement takes effect except that, if the memorandum contains a  
21 provision addressing a subject that, at the expiration of the collective bargaining  
22 agreement, becomes a prohibited subject of bargaining, that provision is no longer  
23 effective. No memorandum of understanding as described in this subsection may be  
24 entered into later than 30 days after the effective date of this subsection.

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(END)